

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

MICHAEL YOUNG,	)	
	)	
Plaintiff,	)	08 C 302
	)	
vs.	)	Honorable Judge
	)	Virginia Kendall
LIEUTENANT MARILYN MARTINEZ et. al.	)	
	)	
Defendants.	)	

**DEFENDANTS' MOTION TO VACATE THE TECHNICAL DEFAULT ENTERED  
AGAINST DEFENDANT WILLIAMS**

NOW COME Defendants, Lieutenant Marilyn Martinez, Lieutenant Richard Dominguez, Officer Danielle Harms, Officer Thomas Cintron and Lone Williams, by their attorney Richard A. Devine State's Attorney of Cook County, through his Assistant Michael L. Gallagher, and moves this Honorable Court to vacate the default entered against Lone Williams and request leave to answer Plaintiff's Amended Complaint:

1. Plaintiff filed his original Complaint on February 20, 2008, against former Officer Lone Williams ("Williams"), Lieutenant Marilyn Martinez ("Martinez"), Lieutenant Richard Dominguez ("Dominguez"), Officer Danielle Harms ("Harms") and Officer Thomas Cintron ("Cintron").

2. On May 8, 2008, summons was served and accepted by the Cook County Department of Corrections on behalf of Williams, Martinez, Dominguez, Harms and Cintron. However, service should not have been accepted on behalf of Williams because he resigned on October 19, 2007. (Exhibit I)

3. On May 15, 2008, Defendants requested that Cook County State's Attorney's Office represent them, and on May 20, 2008, the undersigned attorney was assigned the case.

4. On June 8, 2008, the undersigned attorney filed an appearance and Answer on behalf of Defendants Martinez, Dominguez, Harms and Thomas. Defense counsel did not file an appearance or Answer on behalf of Williams

5. Defense counsel did not file on behalf of Williams because he mistakenly believed Williams' resignation absolved Cook County and/or Sheriff Dart of responsibility for representing him.

6. On August 8, 2008, this Court held *sua sponte* that Defendant Williams was in technical default for failing to timely answer Plaintiff's Complaint.

7. Defendants' respectfully argue that Williams' failure to answer was due to the undersigned counsel's "excusable neglect" as defined by FRCP 60(b)(1).

8. The undersigned attorney is not being dilatory in brining this motion, and apologizes to the Plaintiff, and this Honorable Court for any inconveniences that this delay may cause.

WHEREFORE, Defendants Sheriff Thomas Dart, Lieutenant Marilyn Martinez, Lieutenant Richard Dominguez, Officer Danielle Harms, Officer Thomas Cintron and Lone Williams respectfully request that this Honorable Court vacate the default entered against Williams and grant him leave to file his Answer to Plaintiff's Amended Complaint.

Respectfully Submitted,

RICHARD A. DEVINE  
State's Attorney of Cook County

/s/ Michael L. Gallagher  
Michael L. Gallagher  
Assistant State's Attorney  
500 Richard J. Daley Center  
Chicago, IL 60602  
(312) 603-3124